

Remarks

Claims 1-17 are pending in this application. Claims 1-17 have been rejected. By this reply, no claims have been amended and no new matter has been added. Favorable reconsideration of the claims in view of the arguments presented below is respectfully requested.

Response to the Examiner's Rejection Of Independent Claims 1 and 10 Under 35 U.S.C. § 102(e) as Being Anticipated By Tanaka

Independent claims 1 and 10 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2005/0032426 to Tanaka (hereinafter "Tanaka"). Applicants respectfully traverse this rejection.

A rejection under 35 U.S.C. § 102 requires that the cited reference contain each and every element of the claimed invention. MPEP § 706.02 IV ("... for anticipation under 35 U.S.C. § 102, the reference must teach and every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present"). Tanaka fails to teach each and every element of independent claims 1 and 10. Independent claim 1 reads as follows, with the portion pertinent to the present rejection shown in bold.

1. A radio bin spacer allowing for the mounting of a standard sized radio in a mounting area designed for a larger radio comprising:
a generally rectangular **radio bin spacer** having one closed rear end and one open end and further having a planar top wall, a planar bottom wall and two planar side walls;
said top wall having a structural rib located thereon; said side walls each having a mounting tab located thereon wherein each said mounting tab has a bore located therein;
said closed rear end of said bin having a pair of **spacer stanchions** located thereon; and
said bin having exterior dimensions allowing mounting within an instrument panel opening designed for a larger than standard

sized radio and further **having interior dimensions allowing mounting of a standard sized radio directly therein;** thereby providing a mounting area sized for a standard radio in an opening in an instrument panel sized for a larger radio.

Independent claim 10 reads as follows, with the portions pertinent to this rejection shown in bold:

10. A radio bin spacer allowing for the mounting of a standard sized radio in a mounting area designed for a larger radio comprising:

a generally rectangular **radio bin spacer** having one closed rear end and one open end and further having a planar top wall, a planar bottom wall and two planar side walls; said top wall having a structural rib located thereon; said side walls each having a mounting tab located thereon wherein each said mounting tab has a bore located therein; structural ribs located on said side walls adjacent to said mounting tabs; said closed rear end of said bin having a pair of **spacer stanchions** located thereon; and said bin having a larger than standard sized radio and **further having interior dimensions allowing mounting of a standard sized radio directly therein;** thereby providing a mounting area sized for a standard radio in an opening in an instrument panel sized for a larger radio.

First, Tanaka fails to disclose a radio bin spacer. Independent claims 1 and 10 are both limited to a generally rectangular **radio bin spacer**. Tanaka, instead, discloses a “connector having a simple structure assuring a stable mounting operation.” *See* Tanaka, title. The invention disclosed in Tanaka “relates to a connector having an electromagnetic shielding function and adapted to be mounted on a board such as a printed circuit board known in the art.” *See* Tanaka, ¶ 0002. Tanaka’s Summary of the Invention further defines the invention of Tanaka:

[0007] It is therefore an object of the present invention to provide a connector having a simple structure assuring a stable operation of mounting the connector to a circuit board and a stable operation of attaching the connector to a chassis panel.

[0008] It is another object of the present invention to provide a connector which is enhanced in connecting strength between a front shall [*sic*] and a back shell.

[0009] It is still another object of this invention to provide a connector sufficiently enhanced in shielding function.

Tanaka is unambiguously directed to a connector, not to a radio bin spacer. Nothing in Tanaka explicitly discloses that the apparatus disclosed therein can be used as a radio bin spacer. Nor does anything in Tanaka imply this. This is clear from the Background of the Invention section of Tanaka where it states that the invention of Tanaka is “adapted to be mounted on a board such as a printed circuit board known in the art.” *See* Tanaka, ¶ 2. Figures 4A, 4B, 5A, and 5B clearly demonstrate how the invention of Tanaka is to be mounted to a board, not to an instrument panel opening as required by both independent claims 1 and 10.

The Examiner appears to tacitly admit that Tanaka does not disclose a radio spacer bin from the wording used by the Examiner when phrasing the rejection over Tanaka. Instead of representing that Tanaka discloses “a generally rectangular radio bin spacer . . . ,” the Examiner states, instead, that the “publication to Tanaka discloses a device having a bin” By failing to assert that Tanaka discloses a “generally rectangular radio bin spacer,” the Examiner acknowledges that Tanaka does not do so.

Nor does Tanaka disclose the “spacer stanchions” recited by independent claims 1 and 10. While the Examiner identifies the structures of Tanaka having the reference numerals 2a and 2b, these are not stanchions, let alone spacer stanchions. On the contrary, as disclosed by Tanaka, reference numerals 2a and 2b identify terminals. A stanchion is an upright bar, post, prop, brace, or support. The terminals 2a, 2b disclosed in Tanaka are not stanchions.

Furthermore, independent claims 1 and 10 both require that the bin have “interior dimensions allowing mounting of a standard sized radio directly therein.” Tanaka

does not disclose this. This is clear from Figure 1A of Tanaka, which illustrates the side of the apparatus that the Examiner asserts is the “open end.” The apparatus lacks a bin having interior dimensions which would allow for the mounting of a standard sized radio directly therein. In fact, Tanaka is not open at all, but rather includes a fitting portion 51 whose purpose is to be fitted to a mating connector. *See* Tanaka, ¶ 42. Again, the Examiner appears to admit that Tanaka lacks the recited bin having the recited interior dimensions because the Examiner failed to identify any portion of Tanaka that discloses this element. Instead of providing citation to a paragraph or a reference numeral, the Examiner relies on the naked assertion that this element is present when it is plainly not.

Applicants submit that the Examiner’s rejection of independent claims 1 and 10 has been overcome. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection and allow these claims to issue.

**Response To The Examiner’s Rejection Of Claims
2-7 And 11-15 Under 35 U.S.C. § 103(a) As Being
Unpatentable Over Tanaka In View of Kobayashi Et Al.**

Claims 2-7 and 11-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanaka in view of United States Patent No. 6,330,121 issued to Kobayashi et al. (hereinafter “Kobayashi”). Applicants respectfully traverse this rejection.

First, these references are not analogous art and combining them is inappropriate. Further, to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the Examiner must establish that the references, when combined, teach or suggest all of the claim limitations. Also, the Examiner must establish that there is some suggestion or motivation to modify the references by combining them with the other references relied upon. Here, the Examiner fails to establish both the presence of each claim element in the combination of Tanaka with Kobayashi and also fails to establish any teaching, suggestion, or motivation to combine these references.

Neither Tanaka nor Kobayashi may be properly considered to support a rejection under 35 U.S.C. § 103(a) because neither prior art reference is analogous art. “In order to rely on a reference as the basis for a rejection of an applicant’s invention, the reference must either be in the field of the applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992); MPEP § 2141.01(a) entitled *Analogous and Non-Analogous Art*. As set forth in Applicants’ application, the field of invention is as follows:

The present invention generally relates to a vehicle interior and, more particularly, to spacer bin that provides for mounting a standard radio within an instrument panel cavity designed for the larger sized radio having a navigation screen.

Neither Tanaka nor Kobayashi are within Applicants’ field of invention. This is not only clear from the fact that neither reference is within the same classification assigned to Applicants’ invention, but also from the title of each reference and a cursory review of each reference’s summary of invention. Neither reference appears to relate to a vehicle interior, let alone to spacer bins that provide for mounting standard radios within an instrument panel cavity designed for a larger sized radio having a navigation screen. Accordingly, it is simply inappropriate to consider these prior art references when examining Applicants’ application.

Nor would such combination disclose each element of each rejected claim. As set forth above, Tanaka alone fails to disclose each and every element of independent claims 1 and 10. For the sake of brevity, those arguments will not be repeated here. Kobayashi fails to supply the missing elements. For instance, Kobayashi does not teach a radio spacer bin. On the contrary, Kobayashi relates to optical prisms which are supported on the head of a user to project an image onto the retina of an eye of the user. *See* Kobayashi, col. 1, ll. 5-14. Nor does Kobayashi disclose the spacer stanchions or a bin having interior dimensions allowing for the mounting of a standard sized radio directly therein, as recited by independent claims 1 and 10. Accordingly, the combination of Tanaka with Kobayashi fails to disclose each of the elements recited in independent claims 1 and 10. Dependent claims 2-7 depend from independent claim 1. Dependent claims 11-15 depend from independent claim 10.

Accordingly, each and every claim element recited by dependent claims 2-7 and 11-15 are not disclosed by the combination of Tanaka with Kobayashi.

Nor is there any suggestion, teaching, or motivation in either reference that it be combined with the other. For instance, Tanaka and Kobayashi occupy totally different U.S. classifications. Further, one of ordinary skill in the art seeking to address the problems faced by Tanaka (i.e., to provide a connector having a simple structure assuring a stable operation of mounting the connector to a circuit board) would have no reason to look to the optical prism, display element support and optical assembly art. Nor would someone of ordinary skill in the art seeking to solve the problem of Kobayashi (the object of which is to provide an optical prism of the pertaining type which can ensure its accurate positioning with respect to a display element in an apparatus for OA apparatus field (*see* Kobayashi, col. 2, ll. 41-50)) consult the arts pertaining to connectors having a simple structure. It appears as though the Examiner used impermissible hindsight, informed by the contents of Applicants' dependent claims 2-7 and 11-15, as a basis for cobbling together these two plainly unrelated references. This is improper.

In view of the impropriety of combining two non-analogous prior art references, in view of the failure of Tanaka and Kobayashi to disclose each element recited in Applicants' dependent claims 2-7 and 11-15, and further in view of the complete absence of teaching, suggestion, and/or motivation to combine Tanaka with Kobayashi, Applicants submit that this rejection has been overcome and respectfully request that the Examiner allow these claims to issue.

**Response To Examiner's Rejection Of Dependent
Claims 8, 9, 16 and 17 As Being Unpatentable Under
35 U.S.C. § 103(a) Over Tanaka In View of Czech**

Claims 8, 9, 16 and 17 have been rejected under 35 U.S.C. § 103(a) as being obvious over Tanaka in view of United States Patent Publication No. 2005/0231954 to Czech (hereinafter "Czech"). Applicants respectfully traverse this rejection.

The Examiner has failed to establish a *prima facie* case of obviousness because the combination of Tanaka with Czech fails to disclose each and every element recited by dependent claims 8, 9, 16 and 17. Additionally, neither Tanaka nor Czech are analogous art. Furthermore, there is neither teaching, suggestion nor motivation to combine Tanaka with Czech.

As set forth above, Tanaka alone fails to disclose each and every recited element of independent claims 1 and 10. The combination of Tanaka with Czech fails to cure this defect. For instance, Czech does not supply the missing “radio bin spacer” lacking in Tanaka. On the contrary, Czech discloses a recessed downlight mounting fixture. *See* Czech, title. As stated in Czech, the invention disclosed in Czech “relates to a recessed downlight mounting fixture.” *See* Czech, ¶ 0005. Nor does Czech disclose the recited spacer stanchions located on the closed rear end of the radial bin spacer. Accordingly, the combination of Tanaka with Czech fails to disclose each and every claim element of independent claims 1 and 10. Dependent claims 8 and 9 depend from independent claim 1, while dependent claims 16 and 17 depend from independent claim 10. Therefore, dependent claims 8 and 9 include each of the claim limitations of independent claim 1 and dependent claims 16 and 17 include each and every claim limitation of independent claim 10. Therefore, the combination of Tanaka with Czech fails to disclose each and every claim limitation of dependent claims 8, 9, 16 and 17.

Also, neither Tanaka nor Czech may be properly considered to support a rejection under 35 U.S.C. § 103(a) because neither prior art reference is analogous art. Neither Tanaka nor Czech are within the Applicants’ field of invention. This is not only clear from the fact that neither reference is within the same classification assigned to Applicants’ invention, but also from the title of each reference and a cursory review of each reference’s summary of invention. Neither reference appears to relate to a vehicle interior, let alone to spacer bins that provide for mounting standard radios within an instrument panel cavity designed for a larger sized radio having a navigation screen. Accordingly, it is simply inappropriate to consider these prior art references when examining Applicants’ application.

Even if it were proper to consider these prior art references when examining Applicants' application for obviousness, there is neither motivation nor teaching nor suggestion in either Tanaka or Czech that they be combined with one another. This is clear not only from the fact that Tanaka and Czech fall within different and unrelated classifications, but also from a review of the subject matter of each reference. As set forth above, Tanaka relates to connectors having a simple structure. Czech is concerned with recessed downlight mounting fixtures. A person of ordinary skill in the art seeking to solve the problem of Tanaka would not look to Czech and *vice versa*.

Because the combination of Tanaka with Czech fails to disclose each and every recited element of claims 8, 9, 16 and 17, because neither Tanaka nor Czech are analogous art and because there is no teaching, suggestion or motivation for the combination of Tanaka with Czech, Applicants submit that this rejection has been overcome and respectfully request that the Examiner allow these claims to issue.

Conclusion

Applicants submit a genuine effort to respond to the Examiner's rejections in advancing the prosecution of this case. Applicants believe that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance which is respectfully requested.

The fee for the one month extension of time in the amount of \$120.00 is being filed electronically herewith. Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,
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